



P.O. Box 352 • 150 S. Bridge St. • Markesan, WI 53946 • P: (920) 398-3031 • F: (920) 398-3991

BOARD OF ZONING APPEALS  
Markesan City Hall

August 17, 2020  
6:00 pm

**WORKING AGENDA**

Call To Order

Roll Call

**Public Hearing:** A variance to Section 400-39 C.(3) of the Markesan Municipal Code – SINGLE FAMILY RESIDENTIAL DISTRICT – Principal Building Rear Yard: Minimum 35 Feet by Larry and Lisa Kirker for property located at 230 W. Manchester Street, Markesan, WI. Propose to construct a new attached garage and decrease the rear set back to 12 feet from the rear lot line.

Presentation of Variance Request.

Close Floor; Take Action or Set Date To Do So.

Adjourn

A quorum of the Markesan Common Council may be in attendance at this meeting to gather information about a subject over which they have decision making responsibility. Under Wisconsin Open Meeting Law, this may constitute a meeting of the Common Council pursuant to the Badtke Decision, however, the Council will not take action at this meeting.

Any person requiring special assistance to participate in this meeting should contact the Clerk-Treasurer at 398-3031 at least 24 hours prior to the meeting so appropriate accommodations can be made.

Posted: City Hall Markesan State Bank  
Post Office Farmers State Bank

Dated August 10, 2020  
Elizabeth Amend, Clerk-Treasurer



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## NOTICE

There will be a City of Markesan Board of Zoning Appeals Public Hearing on Monday, August 17, 2020 at 6:00 p.m. at the Markesan City Hall, 150 S. Bridge St., Markesan, WI to consider the granting of a variance for the following:

- A variance to Section 400-39 C.(3) of the Markesan Municipal Code – SINGLE FAMILY RESIDENTIAL DISTRICT – Principal Building Rear Yard: Minimum 35 Feet by Larry and Lisa Kirker for property located at 230 W. Manchester Street, Markesan, WI. Propose to construct a new attached garage and decrease the rear set back to 12 feet from the rear lot line.

Elizabeth A Amend  
City Clerk-Treasurer

Publish August 6, 2020

CITY OF MARKESAN  
GREEN LAKE COUNTY, WISCONSIN  
**BOARD OF ZONING APPEALS APPLICATION FOR VARIANCE**

Application fee of \$250 must be submitted with application. Fees are not refundable.

To apply for a variance from the City of Markesan Zoning Ordinance this completed application, along with the appropriate fees, **eight copies of a site plan** and other requested information and materials, must be submitted to the City Clerk at least 60 days prior to your hearing date. In addition to the application fee, a fee for the required public notice is required. This fee varies.

Your completion of this application (no alternatives will be accepted) and appearance at a public hearing are necessary for the Board to act upon your request. Depending upon the information the Board receives at the hearing and its application of the law, your request for a variance may or may not be granted. You may use the backside of this application or attach extra sheets if you wish. Fees are non-refundable even if the variance is not granted.

APPLICANT – Please print:

Name: LARRY + LISA KIRKER  
Mailing Address: 230 W. MANCHESTER STREET, MARKESAN, WI 53946  
Phone number: 920-210-9837 (C)

PROPERTY OWNER (if different from Applicant) – Please print:

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Phone number: \_\_\_\_\_

I/We hereby request a hearing before the Zoning Board of Appeals for the following subject property (Physical Address or Legal Description/Tax Parcel number, if no address):

230 W. MANCHESTER ST. / 250-00587-0100 Present Zoning District R-1

For a variance from section(s) 400-39C. (3) of the City of Markesan Code of Ordinances.

Explanation of Variance(s) requested: PRESENT LOT DOES NOT ALLOW US  
TO ADHERE TO THE 35' REAR LOT SETBACK IN ORDER TO  
CONSTRUCT A NEW ATTACHED GARAGE. WE ARE REQUESTING  
A VARIANCE TO BUILD 12' FROM REAR LOT LINE.

This application shall also include a drawn to scale site plan(s) with the following information provided. The Zoning Administrator may authorize omissions that are not applicable to an individual case.

- a) North arrow.
- b) Street address.
- c) Size of property in sq. ft or acres.
- d) Property lines and dimensions.
- e) Location of significant natural features including wetlands, steep slopes, flood- prone areas, unique vegetation, any other unusual land features.
- f) Location of all structures on the land with building dimensions.
- g) Proposed construction
- h) Lot lines and all structure within one hundred feet (100') of the site's property lines including driveways and other access points along both sides of the street where access to the site is proposed.
- i) Identification of all rights-of-way and easements pertaining to the subject land and adjoining parcels.
- k) Photographs of property.

In actions before the Board of Zoning Appeals, the burden of proof falls on the applicant, i.e. if a variance is requested, factual evidence must be presented to satisfy the Board that a hardship exists, which is not generally true of other properties in the area and which is not a self-created hardship. The economic cost of compliance is not legally considered a hardship.

The following five questions are based upon the tests for granting non-use/dimensional variances. Be aware that in every instance, each of the tests **MUST** be satisfied in order for the Board of Zoning Appeals to legally grant a variance. Thus, it is in your best interest to answer each of the questions in this application clearly and completely, with as much detail as necessary to support your case for *practical difficulty*, which must be proven in order for the Board to grant a variance.

**Practical difficulty** is a legal term. The Board concludes a valid case has been made for the existence of a practical difficulty when it finds:

1. That a unique circumstance or condition relative to your land prevents you from enjoying the use of your property as others in the same zone district are generally able to do.
2. That the requested variance:
  - a. will not be significantly harmful to your neighbors.
  - b. is consistent with the intent of the Ordinance.
  - c. was not made necessary by anything you did in the first place.

The Board will use the five questions in this application to guide its inquiry into your case. After each question, there is a brief explanation to help you understand the kind of information required. A variance cannot be granted merely as a convenience to the property owner.

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1. What are the exceptional or extraordinary circumstances or unique property limitations that apply to your property, circumstances and conditions that do not generally apply to other properties in the same zoning district as your property?

THE SIZE AND IRREGULARITY OF THE SUBJECT PROPERTY AND THE PLACEMENT OF THE EXISTING HOME LIMITS OUR ABILITY TO CONSTRUCT AN ATTACHED GARAGE. KEEPING WITHIN THE PRESENT 35' REAR SET BACK REQUIREMENTS WOULD RESULT IN THE NEW GARAGE COMPLETELY BLOCKING THE EASTERN SIDE OF OUR HOME. SUBJECT PROPERTY IS IRREGULAR IN SIZE, WITH THE ENTIRE WESTERN 26' PROVIDING DRAINAGE FROM THE FIELD TO THE SOUTH.

What makes your parcel, your property, your land, so unusual -- say in its size or shape or location or other physical characteristics? You must show that you truly have a practical difficulty, one not shared generally by others in your zoning district. ("Zoning district," means all other property owners in R-1, R-2, B-1, etc. -- not just your immediate neighbors.)

2. If you are not granted this variance, will others in your zoning district be able to enjoy substantial rights and privileges that you are unable to?

MOST OF OUR NEIGHBORING PROPERTIES ARE LARGER THAN OURS AND DO NOT HAVE TO PROVIDE AN AREA TO CONTEND WITH WATER RUN OFF. IN AN EFFORT TO MITIGATE DAMAGES WE INCURRED IN PREVIOUS YEARS FROM FIELD RUN OFF, WE CONSTRUCTED A SWALE ON THE WEST SIDE OF PROPERTY. WE WANT TO BUILD AN ATTACHED GARAGE BECAUSE WE CONTINUE TO RECEIVE RUNOFF THAT DOES NOT DIVERT TO THE SWALE AND INSTEAD FLOWS DIRECTLY INTO THE SOUTH EAST CORNER OF OUR BASEMENT, UNDERMINING OUR FOUNDATION.

The Board will also need to be convinced that the nature of your parcel does not allow you to do with your property what others in your district are rightfully able to do. If you claim your lot is too narrow to allow you to build a garage without a variance, yet other residents in your zone district with the same size lots are able to do so, you would not have a strong case for a variance.

3. Will granting this variance be significantly detrimental to your adjacent neighbors and surrounding neighborhood?

GRANTING THIS VARIANCE WILL NOT BE DETRIMENTAL TO OUR NEIGHBORS SINCE OUR PRESENT GARAGE IS IN POOR CONDITION AND CANNOT BE FIXED. IT PRESENTLY IS 14' OFF THE REAR LOT LINE. THE NEW GARAGE WILL IMPROVE THE NEIGHBORHOOD AND BE 12' OFF THE REAR LOT LINE. IN ADDITION THE EXISTING STEEL STORAGE SHED WILL NOT BE NEEDED AND WILL BE REMOVED.

Applicants should realize that the neighbors' signatures on a petition or testimony at the hearing is not necessarily sufficient in itself to convince the Board that granting the variance will not be detrimental to the neighborhood. Variances go with the land, not with the current land owner. Consequently, the Board may take a broader and longer view, one that may be more impartial than your neighbors.

4. Will granting this variance harm the intent and purpose of this Ordinance?

THE GRANTING OF THIS VARIANCE WILL NOT HARM THE INTENT AND PURPOSE OF THIS ORDINANCE, BUT INSTEAD WILL ALLOW COMPLIANCE WITH THE ORDINANCE AS BEST AS THE PROPERTY WILL ALLOW.

The Board must consider whether or not granting a variance will hinder the community in achieving the very goals and objectives the Ordinance is trying to accomplish. You should explain *how* your application is consistent with and does not violate the intent of the particular chapter(s) that applies to it; merely saying it does not is not enough.

5. Has the immediate practical difficulty been caused by anything the applicant has done?

THE IMMEDIATE PRACTICAL DIFFICULTY WAS NOT CAUSED BY THE APPLICANTS.  
WHEN THE PROPERTY WAS PURCHASED ALMOST 20 YRS AGO, ZONING ORDINANCES  
ALLOWED FOR CONSTRUCTION OF A GARAGE CLOSER TO LOT LINE. PRESENT CODE  
MAKES IT MORE DIFFICULT.

So-called "self-created" practical difficulties may not be used to justify granting a variance. Some examples of such difficulties are purchasing property that is nonconforming, trying to undo the effect of a previously granted variance, or having previously constructed/placed structures in a location which hinders your plan for the property.

The undersigned hereby certifies the information given in this application and supplementary materials is true and correct to the best of their knowledge. It is also understood that any information requested, and not included with the application, may cause delays in making a decision on the variance requested.

I hereby grant permission for members of the City of Markesan Board of Zoning Appeals to enter the above described property (or as described in the attached) for the purposes of gathering information related to this application/request/proposal. (NOTE TO APPLICANT: This is optional and will not affect any decision on your application but could help the Board understand the reason for application.)

☒ YES   ☐ NO

Signature of Applicant

[Signature]

Date

7-27-20

This application, **eight (8) copies** of required site plan and filing fee received by:

Administrative Official

[Signature]

Date

7-27-2020

FOR CITY USE ONLY

DATE FILED

7-27-2020

\$250 FEE PAID

7-27-2020 Rec #23370

CLASS 1 NOTICE PUBLISHED (REZ)

8-6-2020

HEARING DATE - BOA

8-17-2020

INDIVIDUAL NOTICES MAILED

DISPOSITION

NORTH ↑

W. MANCHESTER STREET

105'

230 W. MANCHESTER

33' SIDEWALK

DAVID + VALERIE

KUT

DAVID +

HEIDI

BRINKMAN

bb

26.5'

171'

← 33' →

9 1/2'

10'

13 1/2'

26.5'

14'

10' 8"

4'

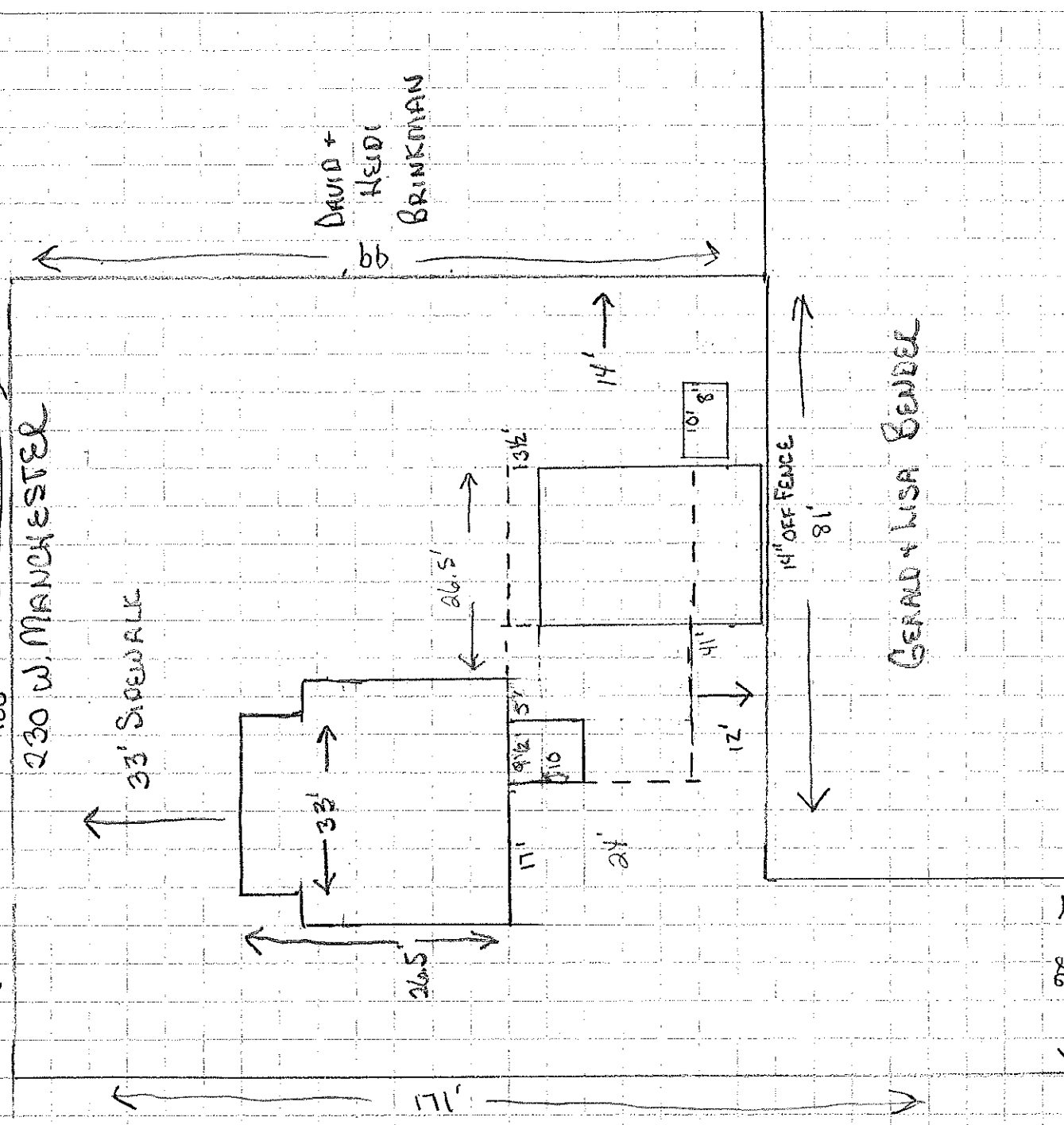
12'

14" OFF FENCE

81'

GERALD + LISA BENDER

← 26.5' →

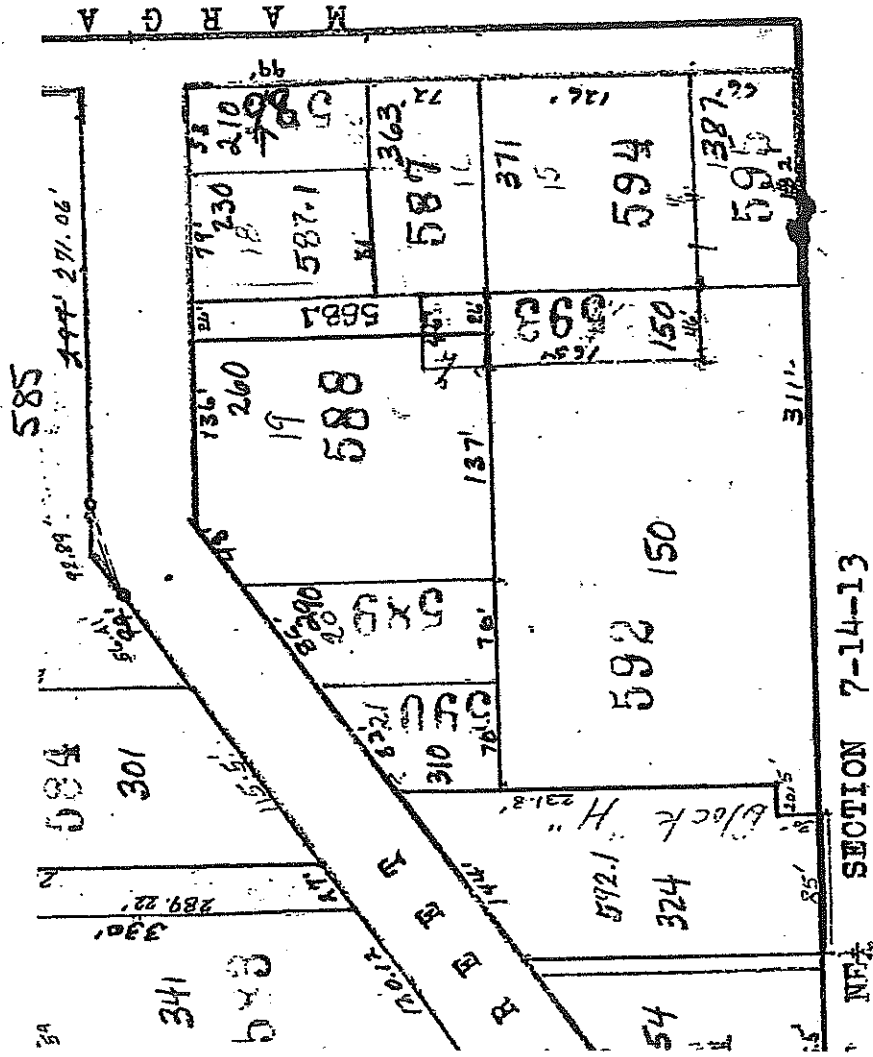


**SUBJECT PROPERTY:**

Larry & Lisa Kirker  
230 W. Manchester Street  
(251-0587-0100 & 251-0588-0100)

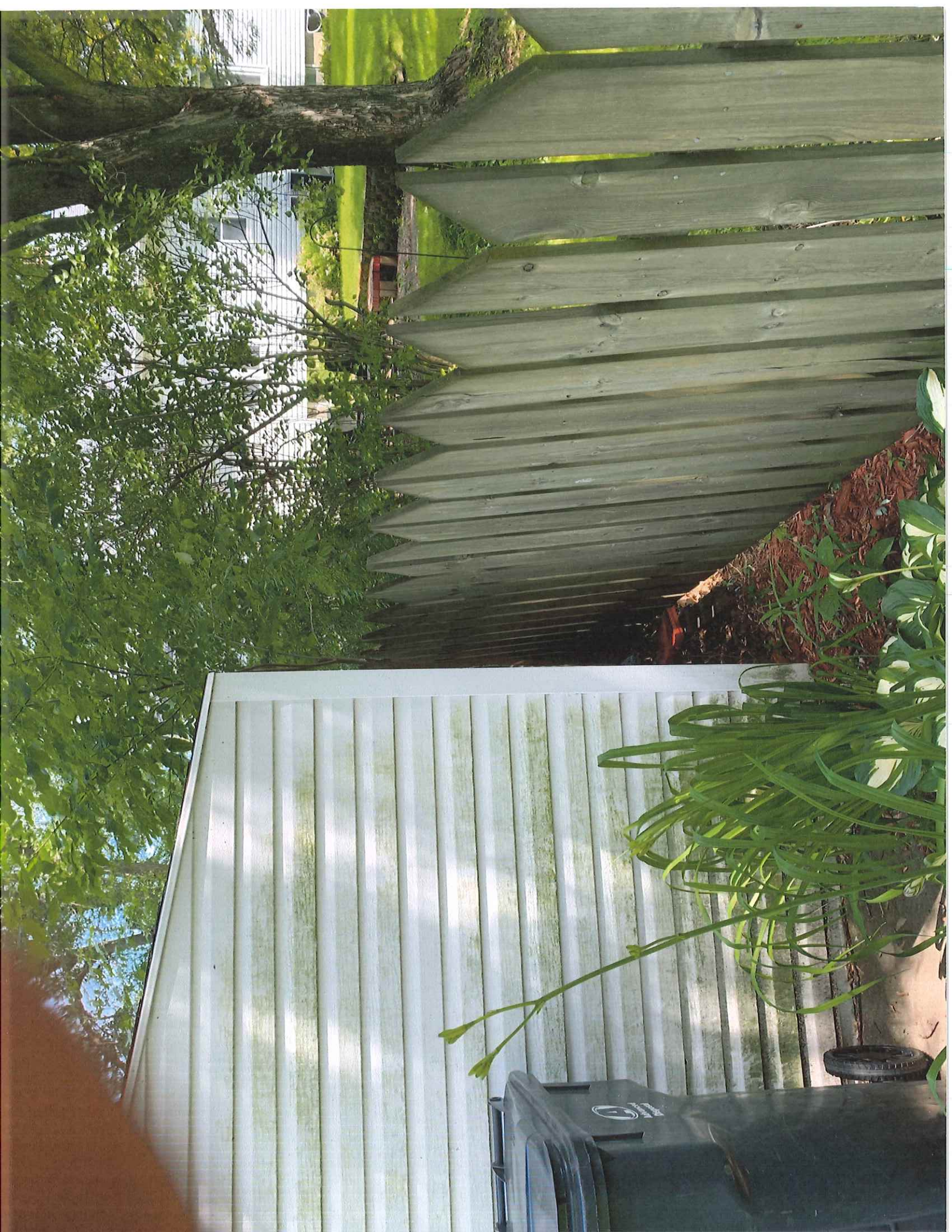
**NEIGHBORING PROPERTIES WITHIN 100'  
OF SUBJECT PROPERTY:**

- David & Heidi Brinkman  
210 W. Manchester Street  
(251-0586-0000)
- David & Valeria Kutschenreuter  
260 W. Manchester Street  
(251-0588-0000)
- Joint School District #3  
200 S. Margaret Street  
(251-0585-0000)
- Gerald & Lisa Bender  
363 S. Margaret Street  
(251-0587-0000)
- Lita Page-Scharschmidt  
371 S Margaret Street  
(251-0594-0000)
- DCCM, LLC  
N1766 County Road U  
(251-0593-0000)

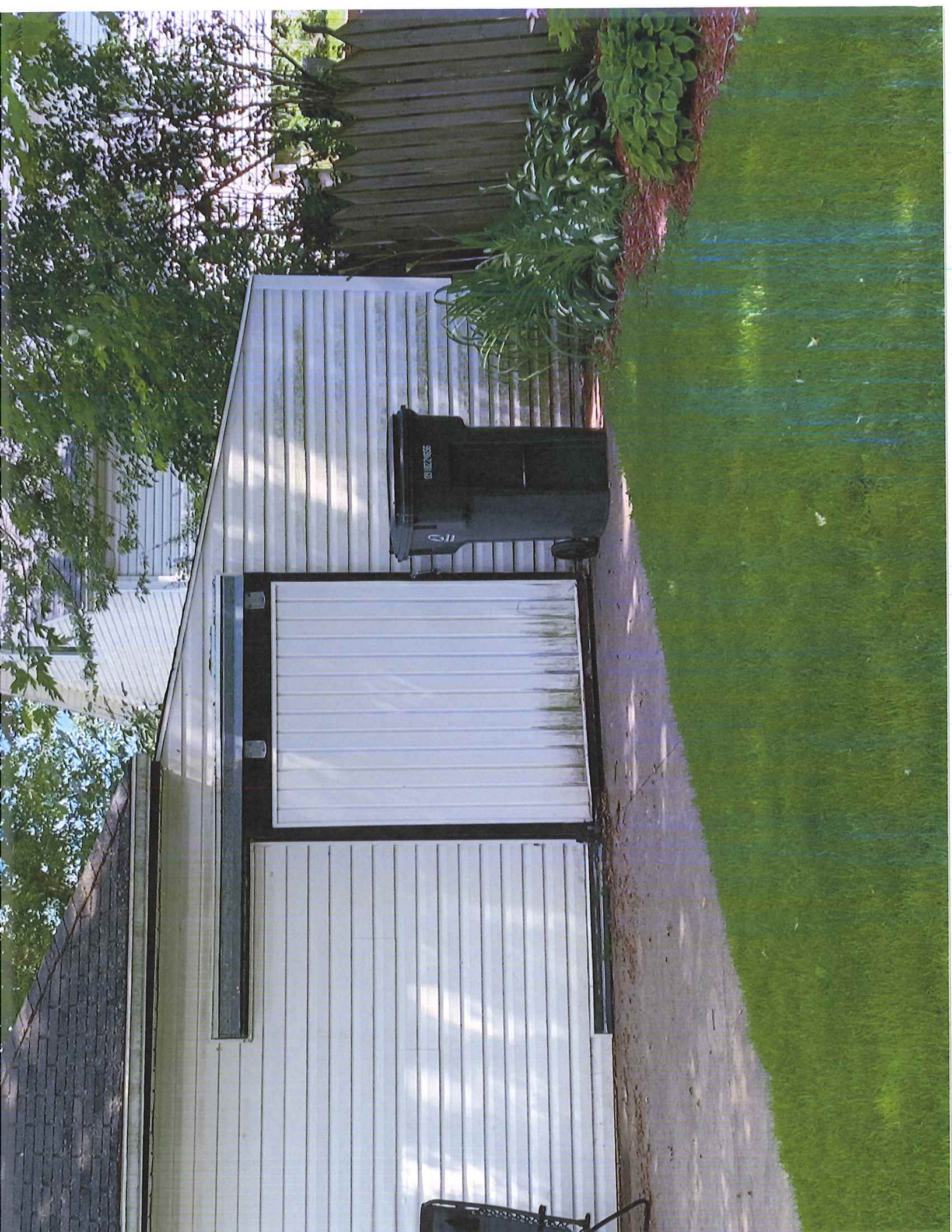


SCALE 150' = 1"









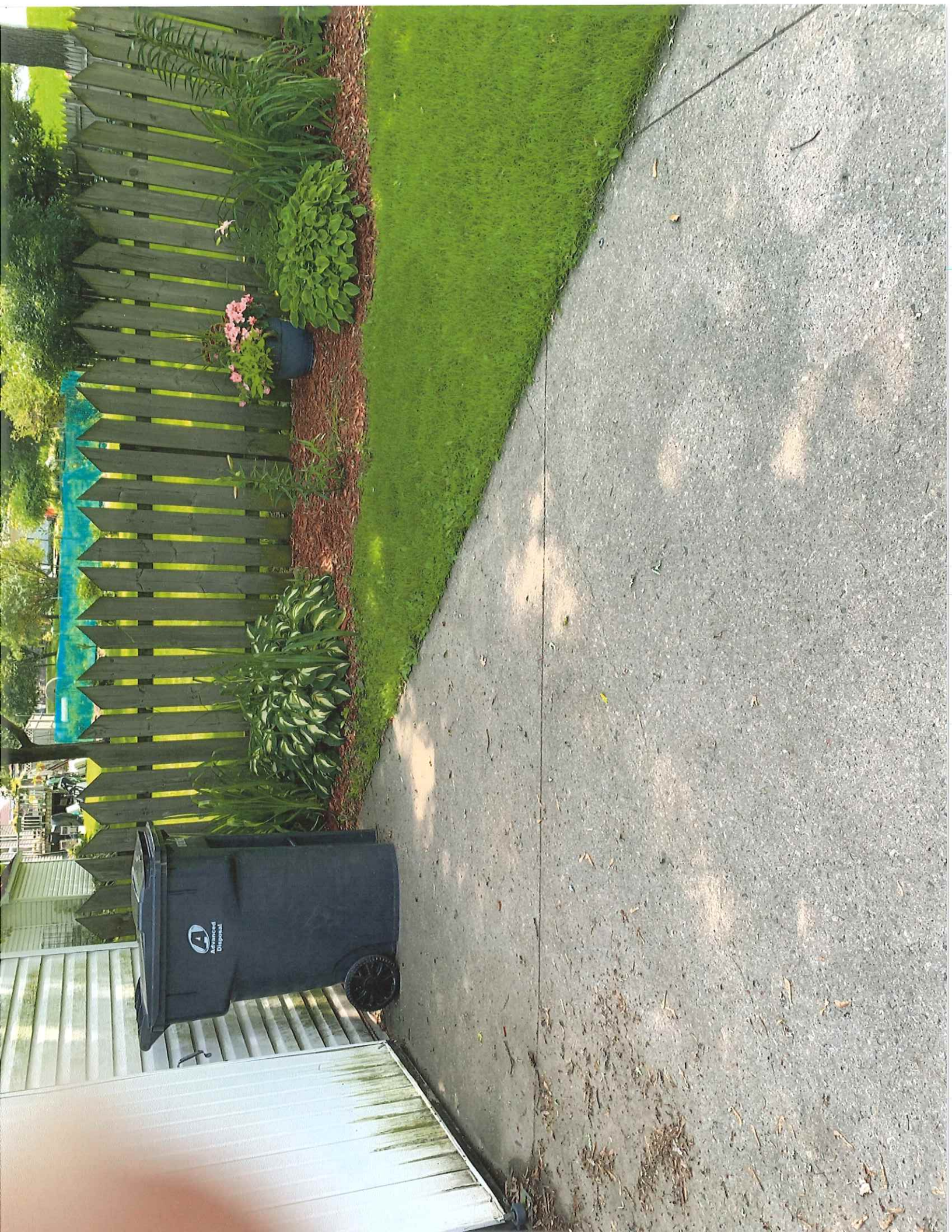






















# GIS Viewer Map

## Green Lake County, WI

Floodplain Zoning Districts  
02-03-2010

MAP NUMBER: 5504700-PANEL-C

- Floodway ZONE AE
- Flood-Fringe ZONE AE
- General Floodplain ZONE A
- areas not A or AE are ZONE X
- Map Panel
- Cross Section
- Flood Water Surface Elevation

### Zoning Districts

- A-1 Farmland Preservation
- A-2 General Agriculture
- C-1 General Commercial
- C-2 Extensive Commercial
- I Industrial
- M-1 Mineral Extraction
- M-2 Sanitary Landfill
- NRC Natural Resource Conservancy
- R-1 Single Family Residence
- R-2 Single Family Mobile Home Residence
- R-3 Multiple Family Residence
- R-4 Rural Residential
- RC Recreation
- AO Adult Oriented Establishment
- UNZ Unzoned
- MUN Municipality
- SPLIT Split Zoning
- PEND Map Update Pending

### Land Use

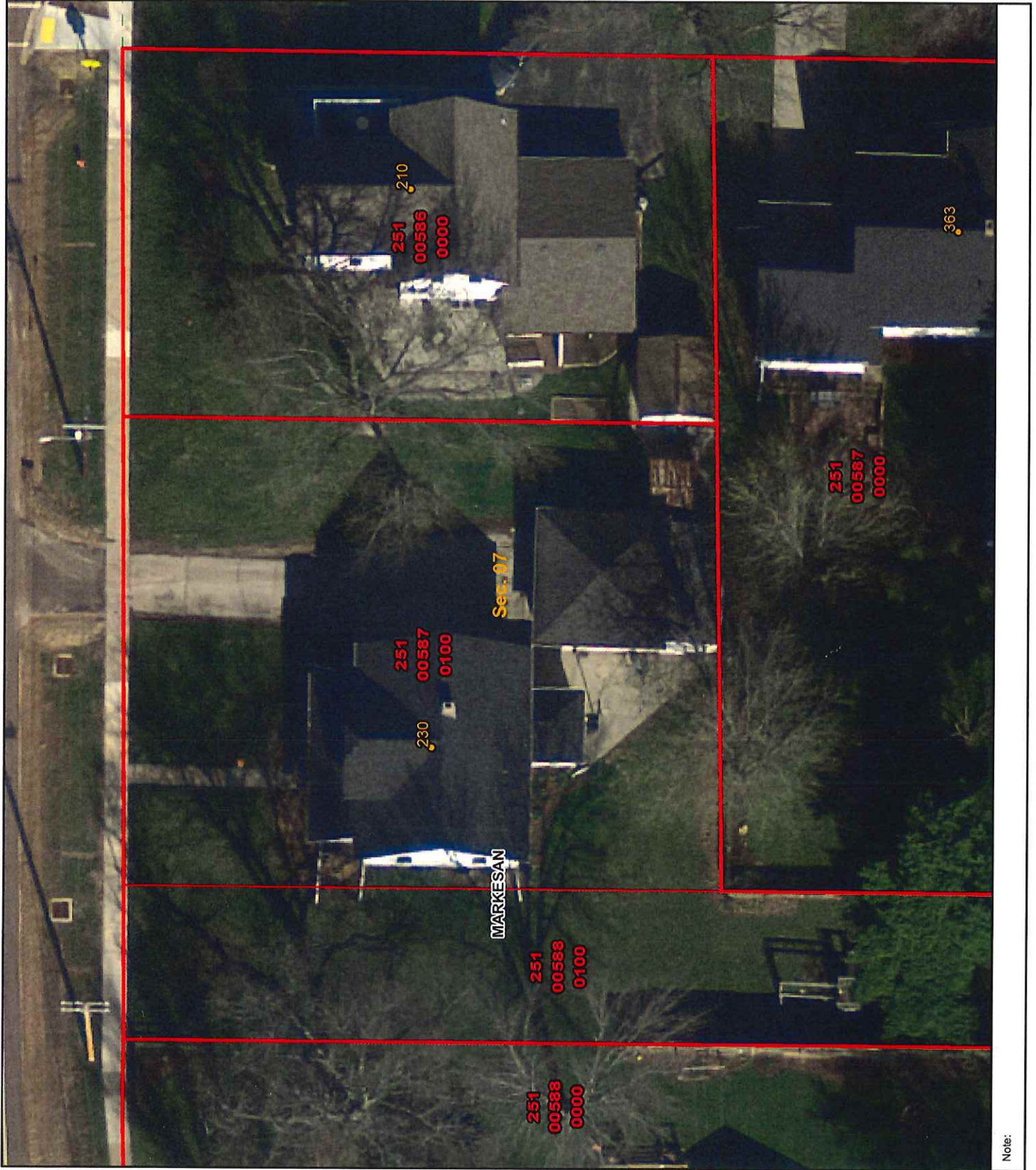
- Agriculture
- Commercial
- Industrial
- Mixed Use
- Public
- Residential

### Base Map

- Parcel
- Address
- City/Village/Town
- Section
- State Road
- County Road
- City/Village/Town Road
- Private Road
- Lake/River
- River Stream

Time: 8:41:57 AM  
Date: 6/26/2020  
1 inch = 23 feet

Geographic Information System (GIS)  
<https://gis.co.green-lake.wi.us/>



Note: